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| EXAMINER | |
|---|---|
| WIN, AUNG T | |

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

| Office Action Summary | Application No. | Applicant(s) | |
|---|---|---|---|
| | 10/665,333 | FRANSDONK, ROBERT | |
| | Examiner | Art Unit | |
| | AUNG WIN | 2617 | |

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1)☒ Responsive to communication(s) filed on *19 October 2009*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4)☒ Claim(s) *1-37* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-37* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

**Application Papers**

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

## DETAILED ACTION

### *Response to Arguments*

Applicant's arguments filed 10/19/2009 have been fully considered but they are not persuasive.

Regarding independent claims 1, 17, 28, 35-37 and dependent claims 2-16, 18-27 and 29-34. Applicant argues that modified method and network does not discloses according to claims because Lindhom reference fails to disclose "the delivery of the content to the content consumers conditional upon there being more than a preset amount of delivery time available to content consumer and wherein the delivery of the content is monitored by the digital rights server". Examiner disagrees. Lindhom discloses that delivery of the streaming content is based on amount of time [pages 9, 12 & 13]. Therefore, it would have been obvious to one of ordinary skilled would realize that the Hans et al's media delivery network modified in view of Lindholm et al. and Seago et al. would teach according to independent claims 1, 17, 28, 35-37 and corresponding dependent claims 2-16, 18-27 and 29-34.

. Regarding Claim 6, Applicant argues that modified method and network does not discloses according to claim i.e., "certain position within the media" to deny further delivery because Lagerweij does not refer to the playback position within the content stream. Examiner disagree. Lagerweij teaches that streaming media delivery is denied after a certain position within the media has been reached [(a certain position i.e., predefined point in time within the media has been reached: 0040, Lines 24-55)]. During patent examination, the claims are given the broadest reasonable interpretation

consistent with the specification. See In re Morris, 127 F.3d 1048, 44 USPQ2d 1023 (Fed. Cir. 1997). See MPEP § 2111 - § 2116.01 for case law pertinent to claim analysis.

Therefore, applicant's arguments are not persuasive.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negative by the manner in which the invention was made.

1. Claims 1-5, 7-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hans et al (US20020120577A1) in view of Lindholm et al. (WO 02/084980A1), further in view of Seago et al. (US20040054923A1).

1.1 Regarding claims 1, 35, 17 & 36, Hans discloses media delivery network, which includes:

a media server to store content to deliver to a content consumer upon demand [content provider server: (Figure 2) (remote content provider 16: Figures 1 & 3) (Figure 5)];

a digital rights server to store content consumer rights defining access rights of a content consumer with respect to the content [Content Management server implemented with rights manager 40, access manager 42, royalty manager 44, user profile storage manager 46 to store content consumer rights defining access rights of a content consumer with respect to content: paragraph 0027];

wherein the delivery of the content to the content consumer is tracked i.e., monitored according to consumer usage patterns by the digital rights server and the access rights of the content consumer are updated in response to content usage patterns during which the content was delivered to the content consumer [updating the user's personal profile according to user's content usage patterns: paragraph 0029].

Thus, Hans' digital rights server is configured to determine the user's rights in order to either authorize or deny the transmission of the requested content from remote content server to the user and further configured to update user's rights in response to a usage patterns i.e., Hans' digital rights server update the user access rights during which the content was delivered to the content user [0027-0029]. Therefore, it would have been obvious that Hans discloses that digital rights server and content media server are configured to communicate each other in order to determine the usage pattern although Hans does not explicitly teach timing delivery of the content to the content consumer at the media server.

Lindholm et al. discloses that system for delivering streaming content in which system comprises streaming media server wherein the delivery of the streaming content to the content consumer is timed by streaming media server and the access rights of

the content consumer are updated in response to a delivered time during which the content was delivered to the content consumer, and wherein the access rights are updated in response to a termination of the content delivery [streaming server record the time used: Page 9] [pay-per-time: page 12 & 13] [acknowledgement of delivery is sent from the streaming server to digital right server i.e., order server during the transaction based on usage time: page 12 & 13]. Lindholm et al. also teaches that content is not delivered until the streaming server verify that user has enough usage time i.e., (delivering the content if more than a preset amount of delivery time available to the content consumer as claimed) [streaming server verify the client usage authorization before sending the streaming media: page 12 & 13].

Therefore, it would have been obvious to one of ordinary skilled in the art at the time of invention of made to modify streaming media network in order to interactively provide pay-per-time service as taught by Lindholm et al. so that the delivery of the content to the content consumer is timed by the media server and monitored by digital right server in order to update the access rights of the content consumer in response to a delivered time accordingly by digital rights server based on transaction between users and streaming media server. One of ordinary skilled in the art at the time of invention of made to implement improved content delivery method with the pay-per-time service to enhance content providing service.

The network as modified above does not explicitly disclose a digital rights server to store content owner rights defining access polic**ies** to the content as established by a

content owner although modified digital right server is implemented with royalty manager to determine prescribed royalty fees in determining the delivery of the content.

Seago discloses wireless content delivery network 100 [Figure 1] comprising content provisioning system with data storage server to store content consumer rights defining access rights of a content consumer with respect to content [Client rights profiles 158: Figure 1] and content owner rights defining access policies to the content as established by content provider [Access/Rights Rules Sets 160: Figure 1]. Seago also teaches that access rights of the content consumer are updated when requested content is delivered to the content consumer as necessary [content action is performed at 276 followed by an updating as necessary of the client rights profiles: 0042].

Therefore, it would have been obvious to one of ordinary skilled in the art at the time of invention of made to further modify digital right server to enable the content owner to define access policies and to store the content owner rights as taught by Seago to provisioning the media delivery network with media server and digital rights server as claimed. One of ordinary skilled in the art at the time of invention of made to do this to provide improved content delivery network with improved digital right managements to content by giving content owner the ability to define access policies in providing content.

1.2 As regards to claim 17, it would have been obvious to one of ordinary skilled in the art that the modified network would teach claim 17 streaming media pay-per-time

method according to claim 17 because modified network execute streaming media pay-per-time method substantially close to the claim 17 method.

1.3 Claim 28 is also rejected for the same reason as stated above in Claims 1 & 17 rejection because claimed monitoring method is substantially close to corresponding method utilized in network as claimed in claim 1. It would have been obvious to one of ordinary skilled in the art that the modified method and network would teach monitoring method with signaling sequences and session data as claimed because the modified network according to claims 1 & 17 is configured to provide pay-per-time streaming media delivery method based on user request in which user can interactively request the streaming data [based on transaction: page 13 of Lindholm et al.]. It should also be noted that claimed streaming media access based on request i.e., session request via known session signaling protocols are well known to one of ordinary skilled in the art at the time of invention of made and expected in any streaming media network that allow the user to interactively request the streaming media.

1.4 As regards to Claim 36, it would have been obvious to one of ordinary skilled in the art that the modified network and method would teach sequence of instructions for executing steps according to the claim 36 because modified network and method is executed by computing devices and method network and method executes steps which is substantially close to corresponding executed steps of claim 36.

1.5 As regards to Claims 2 & 18, it would have been obvious to one of ordinary skilled in the art that modified network and method would teach according to Claims 2 & 18 because modified network is configured to deliver the streaming media based on interactive user commands [based on transaction: page 13 of Lindholm et al]. It should be noted that pay-per-time services are well known to one of ordinary skilled in the art at the time of invention of made.

1.6 As regards to Claims 3, 20 & 31, it would have been obvious to one of ordinary skilled in the art that modified network and method would teach according to Claims 3, 20 & 31 because modified network teaches a plurality of content providers [Seago: Content providers 190: Figure 1].

1.7 As regards to Claims 4, 7, 8, 19, 22, 29, 30 & 33, it would have been obvious to one of ordinary skilled in the art that modified network and method would teach according to Claims 4, 7, 8, 19, 22, 29, 30 & 33 because modified network teaches pay-per-time access service for streaming media sessions based on transaction [page 13 of Lindholm et al] wherein the modified network determines whether to authorize the content transmission based on stored user's rights and update the user's rights accordingly upon content delivery according to user interactive commands [see claims 1 & 17 rejections].

1.8 As regards to Claims 21 & 32, it would have been obvious to one of ordinary skilled in the art that modified network and method would teach according to Claims 21 & 32 because modified network teaches provisioning user authorized time for accessing streaming data for different streaming sessions [see claim 1 rejection for modified pay per time access method for streaming media service in response to user interactive media request commands] [based on transaction: page 13 of Lindholm et al].

1.9 As regards to claim 5, it would have been obvious to one of ordinary skilled in the art that the modified network and method would teach according to claim 5 because modified network teaches pay-per-time access service for streaming media sessions based on user interactive commands [based on transaction: page 13 of Lindholm et al] wherein the modified network determines whether to authorize the content transmission based on stored user's rights and update the user's rights accordingly upon content delivery according to user interactive commands [also see claim 1 rejection].

1.10 As regards to Claims 9, 10, 24 & 25, it would have been obvious to one of ordinary skilled in the art that the modified network teaches communication between media server and digital rights server for session data (i.e., access rights for streaming media session) and further selectively authorizes streaming of the media based on the session data as claimed (i.e., delivering streaming media based on authorized user access rights) as claimed because modified network teaches provisioning pay-per-time streaming media service [see claims 1 & 17 rejections].

1.11 As regards to Claims 11, 12, 13 & 26, it would have been obvious that modified network teaches claimed digital right agent because content delivery is based on owner rights defined by content owner (second access operation) and content consumer rights purchased from service provider by content consumer [see modified network according to claims 1 & 17 in view of Seago: (Rights manager 170, Rights Granted Mechanism and Usage & Rights Reporting Mechanism 168 of Seago)].

1.12 As regards to Claim 14, it would have been obvious to one of ordinary skilled in the art that modified network teaches updating rights as claimed because modified network allow the content consumer to update their rights [Seago: 0025].

1.13 As regards to Claim 15, it would have been obvious to one of ordinary skilled in the art that modified network teaches the network of claim 1, wherein the content consumer rights are acquired from a content distributor with which the content consumer has a relationship as claimed because content provider of the modified network is the content distributor which maintain the content consumer rights and deliver the content based on the stored content consumer rights.

1.14 As regards to Claims 16, 23 & 34, it would have been obvious to one of ordinary skill in the art the modified network teaches communication between media server and digital rights server as claimed because modified network teaches provisioning user

authorized time (i.e., pay per time service: see claim 1 rejection) for accessing streaming data for limited time based on modified digital right server and content media server. It would have been obvious to one of ordinary skilled in the art that modified network teaches requesting step as claimed in order to hold the content the delivery from the content server in operating pay-per-time content delivery service.

1.15 As regards to Claim 27, it would have been obvious to one of ordinary skilled in the art that modified network teaches claimed associating step in order for the modified network to provide content delivery service based on content consumer access rights [see claim 17 rejection].

1.16 As regards to claim 37, it would have been obvious to one of ordinary skilled in the art that the modified network and method as stated above in claim 1 would teach claim 37 streaming media pay-per-time method according to claim 17 because modified network execute streaming media pay-per-time method substantially close to the claim 17 method. Lindholm et al. teaches that client can optionally contact the order server in the case if there is no usage time left to continue the streaming [Page 9].

2. Claim is 6 rejected under 35 U.S.C. 103(a) as being unpatentable over Claims 1 – 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hans et al (US20020120577A1) in view of Lindholm et al. (WO 02/084980A1), further in view of

Seago et al. (US20040054923A1), further in view of Lagerweij et al. (US20030217163A1).

2.1 As regards to claim 6, the network as modified above teaches the claim 1 network for delivering streaming media but does not explicitly teach that streaming media delivery is denied after a certain position within the media has been reached.

Lagerweij teaches the method and network of delivering streaming media and further teaches claimed limitation i.e., streaming media delivery is denied after a certain position within the media has been reached [(a certain position i.e., predefined point in time within the media has been reached: 0040, Lines 24-55)].

Therefore, it would have been obvious to one of ordinary skilled in the art at the time when invention was made to further modify the network as taught by Lagerweij to control the delivery of the streaming media up to a certain position as claimed. One of ordinary skilled in the art at the time of invention of made to do this to enhance streaming media service with complex access rights rules.

## *Conclusion*

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to AUNG T. WIN whose telephone number is (571)272-7549. The examiner can normally be reached on 8:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alexander Eisen can be reached on (571) 272-7687. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/AUNG WIN/
Examiner, Art Unit 2617

/Patrick N. Edouard/

Supervisory Patent Examiner, Art Unit 2617